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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/462,502	01/24/2000	YASUO KONDO	10641-0001-3	5164

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EXAMINER

SIMONE, CATHERINE A

ART UNIT	PAPER NUMBER
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1772

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DATE MAILED: 02/27/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

ME//

Office Action Summary	Application No.	Applicant(s)	
	09/462,502	KONDO ET AL.	
	Examiner	Art Unit	
	Catherine Simone	1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3 and 5-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.

- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Election/Restrictions

1. In view of applicant's response, the restriction requirement mailed December 21, 2001 is hereby withdrawn.

Specification

2. The abstract of the disclosure is objected to because it should be one paragraph. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. **Claims 1, 3, 5-13, 18, and 19** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The terms "soft" (**claim 1**), "hard" (**claim 1**) and "concavo-convex" (**claim 3**) are relative terms which render the claims indefinite. The terms "soft", "hard", and "concavo-convex" are not defined by the claims, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Clarification is requested.

The terms "thin" and "non-thin" in **claims 5-12, 18 and 19** are a relative terms which render the claims indefinite. The terms "thin" and "non-thin" are not defined by the claims, the

specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Clarification is requested.

The recitations "a surface of a periphery of the cover body has a step portion backing to the rear surface of the cover body and facing to the edge of the opening portion of the main body" (**claim 5**), "can be" (**claim 8**), "shape of one transversal line" (**claims 6-10**), "shape of one longitudinal line" (**claims 8, 10 and 11**), "mechanically connected" (**claim 13**), and "a general portion which is a portion except for the thin wall portion of the cover body" (**claim 18**) are deemed vague and indefinite. Clarification is requested.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

6. **Claims 1, 3, 5, 12, 13 and 19** are rejected under 35 U.S.C. 102(e) as being anticipated by Nakashima et al. (6,299,198).

Nakashima et al. discloses a panel for an airbag of an automobile formed by integrally two-color molding a cover body made of a soft synthetic resin with a main body made of another hard synthetic resin (see col. 2, lines 16-18), the panel comprising a joint portion (Fig. 3, #7c) joined with the cover body (Fig. 3, #1) provided around an opening portion (Fig. 3, #3a) formed in the main body (Fig. 3, #5a), wherein the joint portion (Fig. 3, #7c) constitutes an overlapping portion (Fig. 3, #4) which an outer peripheral edge (Fig. 3, #4d) of the cover body is overlapped as being arranged on the inner side of an opening edge (Fig. 3, #3b) of the main body and the overlapping portion is welded together in two-color molding the main body with the cover body. Regarding **claim 3**, note concavo-convex portion (Fig. 3, #5c) formed on a lower face of the main body in the overlapping portion. Regarding **claim 5**, note a groove portion (Fig. 3, #4e; also see col. 4, lines 63-67) having a closed curve shape, a thin wall portion (Fig. 1, #4c; also see col. 1, lines 39-42) and inherently a non-thin wall portion formed along the groove portion. Regarding **claim 12**, a rib (Fig. 3, #4f; also see col. 2, line 61) is projected in the non-thin wall portion and connected to the airbag case through a connecting member (Fig. 3, #5b). Regarding **claim 13**, the opening edge of the opening portion of the main body is mechanically connected (see col. 3, lines 1-13) to the outer peripheral edge of the cover body. Regarding **claim 19**, a rib (Fig. 3, #4f; also see col. 2, lines 60-62) is projected in the cover body on the rear face of a portion in which no thin wall portion is formed; and wherein a connecting member (Fig. 3, #9) made of a metal (see col. 3, lines 42-46) and extending from a side of the main body (Fig. 3, #5a) is connected to the rib, and a projection (Fig. 3, #1a) is formed on a surface of this connecting

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member and is bitten into a surface of the rib when the connecting member is connected to the rib.

In regards to **claims 1**, process limitations are given little or no patentable weight. The method of forming the product is not germane to the issue of patentability of the product itself. Further, when the prior art discloses a product which reasonably appears to be either identical with or only slightly different than a product claim in a product-by-process claim, the burden is on the Applicant to present evidence from which the Examiner could reasonably conclude that the claimed product differs in kind from those of the prior art. *In re Brown*, 459 F.2d 531, 173 USPQ 685 (CCPA 1972); *In re Fessman*, 489 F.2d 742, 180 USPQ 324 (CCPA 1974). This burden is NOT discharged solely because the product was derived from a process not known to the prior art. *In re Fessman*, 489 F.2d 742, 180 USPQ 324 (CCPA 1974).

Furthermore, the determination of patentability for a product-by-process claim is based on the product itself and not on the method of production. If the product in the product-by-process claim is the same or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process. *In re Thorpe*, 227 USPQ 946, 966 (Fed. Cir. 1985) and MPEP §2113. In this case, the limitations of **claim 1** is a method of production, i.e. two-color molding, and therefore does not determine the patentability of the product itself.

7. **Claim 18** is rejected under 35 U.S.C. 102(e) as being anticipated by Nakashima et al. (6,299,198).

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Nakashima et al. discloses a panel for an airbag formed by integrally molding a cover body made of a synthetic resin with a main body made of another synthetic resin (see col. 2, lines 16-19) and providing a thin wall portion (Fig. 1, #4c) which ruptures (see col. 1, lines 40-44) when the airbag is operated: wherein the main body (Fig. 3, #5a) and the cover body (Fig. 3, #1) are integrally molded by one-color molding (see col. 2, lines 16-19); wherein a crack preventing layer (Fig. 3, #3b; also see col. 2, lines 40-45) is provided on a rear surface of a general portion (Fig. 3, #3a) which is a portion except for the thin wall portion of the cover body; and wherein the crack preventing layer prevents cracks of the general portion.

In regards to **claim 18**, process limitations are given little or no patentable weight. The method of forming the product is not germane to the issue of patentability of the product itself. Further, when the prior art discloses a product which reasonably appears to be either identical with or only slightly different than a product claim in a product-by-process claim, the burden is on the Applicant to present evidence from which the Examiner could reasonably conclude that the claimed product differs in kind from those of the prior art. *In re Brown*, 459 F.2d 531, 173 USPQ 685 (CCPA 1972); *In re Fessman*, 489 F.2d 742, 180 USPQ 324 (CCPA 1974). This burden is NOT discharged solely because the product was derived from a process not known to the prior art. *In re Fessman*, 489 F.2d 742, 180 USPQ 324 (CCPA 1974).

Furthermore, the determination of patentability for a product-by-process claim is based on the product itself and not on the method of production. If the product in the product-by-process claim is the same or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process. *In re Thorpe*, 227 USPQ 946, 966 (Fed. Cir. 1985) and MPEP §2113. In this case, the limitations of **claim 18** is a method of

production, i.e. one-color molding, and therefore does not determine the patentability of the product itself.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. **Claims 6-11** are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakashima et al. (6,299,198).

Nakashima et al. discloses a panel for an airbag of an automobile formed by integrally two-color molding a cover body made of a soft synthetic resin with a main body made of another hard synthetic resin (see col. 2, lines 16-18), the panel comprising a joint portion (Fig. 3, #7c) joined with the cover body (Fig. 3, #1) provided around an opening portion (Fig. 3, #3a) formed in the main body (Fig. 3, #5a), a groove portion having a closed curve shape (Fig. 3, #4e; also see col. 4, lines 63-67), a thin wall portion (Fig. 1, #4c) and inherently a non-thin wall portion. However, Nakashima et al. fails to disclose the thin and non-thin wall portion being of different shapes i.e. a quadrilateral, two quadrilaterals, one transversal line, one longitudinal line or H-shaped.

Normally, it is to be expected that a change in shape of the thin and non-thin wall portions would be an unpatentable modification. Under some circumstances, however, changes such as shape may impart patentability to a product if the particular shape claimed produces a

new and unexpected result which is different in kind and not merely in degree from the results of the prior art. *In re Dailey et al*, 149 USPQ 47 CCPA 1966.

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to change the shape of the thin and non-thin wall portions noted in Nakashima et al. to a longitudinal line, a transversal line, a quadrilateral, two quadrilaterals or an H-shape. One skilled in the art would have been motivated to do so in order to form a panel for an airbag, since it has been held that the change in form or shape of the thin and non-thin wall portion would be an unpatentable modification absence of showing unexpected results.

10. **Claims 14-17** are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakashima et al. (6,299,198) in view of Dominique et al. (6,158,763).

Nakashima et al. discloses a panel for an airbag of an automobile including a cover body (Fig. 3, #1) comprising a synthetic resin material; a main body (Fig. 3, #5a) comprising a synthetic resin material, formed by two-color molding after forming the cover body (see col. 2, lines 17-20); and the main body comprises an opening portion (Fig. 3, #3a) which is closed by the cover body. However, Nakashima et al. fails to disclose a deformation restricting portion constituted of a convex strip having an angular cross section or a concave groove. Dominique et al. teaches that it is well known in the art to have a deformation restricting portion (Fig. 1, #36) constituted of a convex strip having an angular cross section or concave groove (Fig. 1, #32) for the purpose of restricting deformation of the cover body of the airbag panel.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have provided a deformation restricting portion constituted of

a convex strip having an angular cross section or a concave groove as suggested by Dominique et al. in the airbag panel as taught by Nakashima et al. in order to restrict deformation of the cover body of the airbag panel.

In regards to **claims 14-17**, process limitations are given little or no patentable weight. The method of forming the product is not germane to the issue of patentability of the product itself. Further, when the prior art discloses a product which reasonably appears to be either identical with or only slightly different than a product claim in a product-by-process claim, the burden is on the Applicant to present evidence from which the Examiner could reasonably conclude that the claimed product differs in kind from those of the prior art. *In re Brown*, 459 F.2d 531, 173 USPQ 685 (CCPA 1972); *In re Fessman*, 489 F.2d 742, 180 USPQ 324 (CCPA 1974). This burden is NOT discharged solely because the product was derived from a process not known to the prior art. *In re Fessman*, 489 F.2d 742, 180 USPQ 324 (CCPA 1974).

Furthermore, the determination of patentability for a product-by-process claim is based on the product itself and not on the method of production. If the product in the product-by-process claim is the same or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process. *In re Thorpe*, 227 USPQ 946, 966 (Fed. Cir. 1985) and MPEP §2113. In this case, the limitations of **claims 14-17** are a method of production, i.e. two-color molding, and therefore do not determine the patentability of the product itself.

11. **Claim 20** is rejected under 35 U.S.C. 103(a) as being unpatentable over Nakashima et al. (6,299,198) in view of Matsumoto et al. (6,328,924).

Nakashima et al. discloses a panel for an airbag of an automobile formed by integrally molding a cover body (Fig. 3, #1) made of a synthetic resin with a main body (Fig. 3, #5a) made of another synthetic resin. The patent to Matsumoto et al. discloses a method for producing a panel comprising: preparing a thermoplastic material (see col. 2, lines 32-35), arranging a movable core in a male or female die (see col. 2, lines 26-37), and injecting a material (see col. 2, lines 33-35). It would have been obvious to one of ordinary skill in the art to have produced the panel of Nakashima et al. according to the method as disclosed by Matsumoto et al. in order to form an integrally molded cover body. The steps of interrupting a portion, forming a communicating portion, and forming an overlapping portion are steps that would be inherent in the above combination of references.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents are cited for further teachings of panels for an airbag similar to that instantly disclosed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Catherine Simone whose telephone number is (703) 605-4297. The examiner can normally be reached on 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on (703) 308-4251. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

CAS
Catherine Simone
Examiner
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February 22, 2002

[Signature]
HAROLD PYON
SUPERVISORY PATENT EXAMINER
1772

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